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**1997 Wis Eth Bd 10**  
**LOBBYING LAW**

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The Ethics Board advises that a lobbying principal include in its semi-annual report to the Ethics Board the time an individual, who is not a lobbyist, spends on the principal's behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes. (September 24, 1997)

Facts

- ¶ 1. This opinion is based upon these understandings:
- a. You write on behalf of an Association, of which you are executive director.
  - b. The Association is a registered lobbying principal.
  - c. The Association has hired an individual to represent the Association on a committee established by a state agency to formulate recommended changes to a state statute.
  - d. You have indicated that the individual will communicate with state officials on behalf of the Association to attempt to influence legislation or administrative rules on no more than four days during the current six month reporting period and that the Association will not authorize the individual to lobby on its behalf.

Questions

- ¶ 2. The Ethics Board understands your question to be:

How, if at all, should the Association record the time the individual spends working for the Association in connection with his representation of the Association on the committee established by the state agency?

Discussion

¶ 3. Wisconsin's lobbying law requires every lobbying principal to file with the Ethics Board, semi-annually, a statement that contains:

A contemporaneous record disclosing the time and resources spent on each attempt to influence legislative or administrative action in each subject area. The contemporaneous record shall be supplied on a form provided by the board and shall include an itemization of the time and resources spent on research and preparation, the time spent meeting with elective state officials, agency officials, legislative employees of the state and other state employees having decision-making authority, and any other activity which includes lobbying.

§13.68(1)(c)2., *Wisconsin Statutes*.

¶ 4. Our understanding is that the state agency has asked various organizations, businesses, and individuals to serve on a committee to formulate changes to statutes. You have indicated that the Association has hired an individual to represent the Association on that committee.

¶ 5. The first issue raised by your inquiry is whether the individual's activities are reportable. They are.

The lobbying law defines "legislative action" to include:

[T]he development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or defeat of any bill, resolution, amendment, report, nomination, administrative rule or other matter by the legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a legislator or employee of the legislature acting in an official capacity.

¶ 6. Representing the Association's views on a committee whose purpose is to recommend statutory changes for ultimate enactment by the legislature is an attempt to influence legislative action. 1992 Wis Eth Bd 6 ¶4 (the lobbying law applies to an individual representing the views of an employer on a state board or commission). This is not changed by the fact that the legislative proposal is being developed in the agency, rather than in the Legislature, 1992 Wis Eth Bd 21 ¶4, nor by the fact that the agency itself may have initiated the effort.<sup>1</sup> Moreover, attempting to affect a legislative proposal as part of service on an agency committee is not subject to any exemption.<sup>2</sup>

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<sup>1</sup> Section 13.621(1)(f), *Wisconsin Statutes*, exempts from the lobbying law:

¶ 7. The next issue raised by your inquiry is how the Association should report the individual's activities. You have stated that the individual's activities will not be such as to meet the definition of a lobbyist. Although the individual does not appear to be an employee of the Association, the nature of his activities are such that he is working under the direction and control of the Association. The Association should report the individual's time in Part II of the Principal's Statement of Lobbying Activities and Expenditures, the section that includes the time of all non-lobbyists engaged in lobbying activities under the Association's supervision or control. 1991 Wis Eth Bd 7 ¶4. The Association should report all of the individual's time spent in participating on the committee in and preparing for such participation.

### Advice

¶ 8. The Ethics Board advises that the Association include in its semi-annual report to the Ethics Board the time an individual spends on its behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes.

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**13.621(1)(f)** Requests by an agency official for information from any person and the furnishing of the information by that person, or requests by any person from an agency official and the furnishing of the information by that official.

'Information' is generally defined to mean "facts" or "data". See, e.g. *Webster's Ninth New Collegiate Dictionary* (1983). Offering the Association's opinions or views, in an attempt to affect a legislative proposal, is something more than providing facts or data.

<sup>2</sup> Section 13.621(1)(e), *Wisconsin Statutes*, exempts from the lobbying law:

**13.621(1)(e)** Participation as a member in the deliberations of a committee under s.227.13 or any committee of the legislature.

The agency's committee was not established pursuant to §227.13, which authorizes an agency to appoint a committee "to advise it with respect to any contemplated rule making." The committee about which you have asked was established to formulate statutory changes.